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U.S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

-----X
UNITED STATES OF AMERICA,

Plaintiff,

- and -

CONNECTICUT FUND FOR THE ENVIRONMENT,
INC.; SOUTHTON CITIZENS ACTION
GROUP; EDWARD AVERY; JOAN BRADLEY;
EDWINA LUDECKE; GLADYS LANGTON,

Intervening Plaintiffs,

- and -

BOARD OF WATER COMMISSIONERS FOR THE
TOWN OF SOUTHTON,

Intervening Plaintiff,

- versus -

SOLVENTS RECOVERY SERVICE OF NEW
ENGLAND,

Defendant.
-----X

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Civil Action

No. H 79-704

Continuing deposition of ULISSE F. MARINI
taken pursuant to the Federal Rules of Civil Pro-
cedure at the law offices of the United States

Rec'd
12/3/81
LRS

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NEW HAVEN, CONNECTICUT

Attorney, 270 Orange Street, New Haven, Connecticut
before Jane E. Mikos, a Notary Public within the
and for the State of Connecticut, on Wednesday,
October 14, 1981 commencing at 10:22 a.m.

o o o

A P P E A R A N C E S :

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- and -

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By: MARION PERCELL, Esq., of Counsel

oOo

1
2 U L I S S E F . M A R I N I , called as
3 a witness, having been previously duly sworn, was
4 examined and testified further as follows:

5 DIRECT EXAMINATION

6 BY MR. BLUMSTEIN: (Continued)

7 Q Mr. Marini, I'm Joel Blumstein with the United
8 States Environmental Protection Agency in Boston and we're
9 here to continue a deposition that was begun, I guess, it
10 was last May.

11 If you have any questions about anything I ask,
12 stop and let me know.

13 A Okay.

14 Q I'd like to start off by asking you a few
15 followup questions to some things that were covered during
16 the May deposition.

17 I want to start with a document that was
18 introduced as Exhibit 3 at that point and I give you a copy.

19 I'd like you to look particularly at paragraph
20 3 -- well, first of all, do you recognize that document?

21 A Yes, I do.

22 Q Okay. Paragraph three talks about, "It is
23 recommended we replace one or two bases monthly with saddles
24 on concrete slabs beginning with the wooden foundations."

25 Was that ever done?

1
2 A Yes, it was.

3 Q And when was that accomplished?

4 A Sometime in '79 and '80. We secured it over a
5 two-year period.

6 Q The work itself, it was done in '79 and '80?

7 A Yes, in '79 and '80. Yes. The majority of the
8 work.

9 Q Would you explain to me why wasn't it done between
10 November 15, 1976 and whenever it was begun in 1979?

11 A I can't answer that. It was my recommendation at
12 that time. I had just started with the company, a month
13 with the company. I made those recommendations. I can't
14 answer it.

15 Q You don't know why they didn't follow through
16 with that recommendation?

17 A I have no idea.

18 Q Okay. On the fourth page of this November 15th
19 document, item number 4 says, "Al and I will set up a
20 program to improve housekeeping and safety."

21 What does that refer to? That's not referred to
22 in the rest of this memo.

23 In particular, what housekeeping measures are you
24 talking about that need to be implemented that aren't
25 referred to in the rest of the document?

1
2 A An ongoing program we have set up and it's
3 something we try to keep on top of, and improve the
4 employees' techniques, their procedures. We had an OSHA
5 listing where they pointed out certain items we should look
6 at and I made an inspection at that time of the plant and
7 just continued the program that was going on at that time.

8 Q Did you have in mind any type of drum or tank
9 storage purposes in addition to what you discussed in the
10 rest of the memo?

11 A Can you point -- refer to something in here.

12 Q Okay. I see in paragraph 3, for instance, you're
13 talking about replacing tank foundations and in paragraph 7,
14 you refer to reducing drum inventory.

15 A Yes.

16 Q Anything else with regard to tanks or drums?

17 A No.

18 Q Okay. The next exhibit I'd like to go back to is
19 Exhibit 2 that was introduced to you in May which is a
20 diagram of the solvent facility in Southington.

21 At that time, there was some discussion of the
22 trough that was marked E. I have a couple of questions about
23 that trough.

24 As you previously testified, it had been covered
25 over?

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A Yes.

Q What was that trough used for before it was covered over?

A Collection spot of runoff water for any possibly spills that occurred in that area. It would be collected in there.

Q The material that was collected there, where did those materials go to at that time?

A We pump it into drums or a storage tank.

Q And what was done with those drums and storage tank?

A Taken out to a landfill.

Q Do you know where the landfill was?

A No.

Also, some materials were brought down to Jersey and went into our fuel plant.

Q Was that covered over at the request of the State of Connecticut?

A Yes, it was.

Q Why did the State want that covered over?

MS. PERCELL: If you know.

A All I can say is the State recommended it.

Q You don't know what was behind the recommendation?

A No.

1
2 Q Still looking at that diagram marked K and L
3 which I believe you said was storm sewers, is that correct?

4 A Yes.

5 Q You also testified that one of the things that
6 entered those storm sewers was an overflow from a well?

7 A Yes.

8 Q What type of well was that?

9 A I'm not familiar with the type well it was. Dug
10 wells before myself and periodically during the heavy rain
11 during the winter and with melting snow and so on, the well
12 at times would overflow and flow into one of these basins.

13 Q That was a drinking-water well?

14 A It's a well.

15 Q Do you know what its use was?

16 A Mainly for process.

17 Q What now happens with the overflow from that well?

18 A Goes in the same two basins.

19 Q Now, I would like to introduce some documents,
20 things that weren't introduced the last time you were here.

21 The first document is a May 17th, 1977 memo
22 from U. F. Marini to A. V. Tatro.

23 (Plaintiff's Exhibit 12 for identifi-
24 cation: Memo dated May 17, 1977 from
25 U.F. Marini to A.V. Tatro.)

1
2 BY MR. BLUMSTEIN:

3 Q Would you take a look at that, please.

4 Do you recognize that document?

5 A I recognize the person who it's from.

6 Q That's you?

7 A Yes.

8 Q On the fourth line it says, "Rating: 8." Did
9 you have a rating system for plant inspections that you
10 performed?

11 A At that time, we set up a rating system, yes, we
12 did.

13 Q Could you describe that rating system, what was
14 highest and lowest?

15 A Ten. One. One was lowest; ten was the highest.

16 Q Ten indicated an excellent result from the
17 inspection?

18 A Yes.

19 Q The last paragraph of the memo says, "Areas that
20 need immediate attention are the tank farm, process and
21 drum storage areas."

22 Could you explain what immediate attention was
23 needed in each of those areas?

24 A Immediate as the word indicates, immediately. As
25 to what particular problem we had in that area, I can't

1
2 answer. At that time -- it's four years. It could have
3 been dirty gloves, rags.

4 Q Do you have any recollection of whether the
5 immediate action was taken in response to your suggestion here
6 to Mr. Tatro?

7 A There was action taken but as I said, it's an
8 ongoing-type of program and wasn't resolved or completed in
9 a week or so. Something we did continually.

10 Q You said it wasn't completed within a week --

11 A I can't answer that. I don't know that. At that
12 time, it was an outstanding problem we had. It's four years
13 ago. I don't remember.

14 Q Do you have any recollection of the type -- of the
15 general types of problems that existed, let's say, in the
16 tank farm at that time?

17 A Dirt, clutter.

18 Q What do you mean by dirt?

19 A Could be dirt as a general term, gloves, rags,
20 probably loose gaskets.

21 Q Any spillage?

22 A Could be. Could be.

23 Q Okay. The next document I'd like to show you is
24 a June 3rd, 1977 memo from you to J. P. O'Connell.

25 MR. BLUMSTEIN: Mark that as an exhibit.

(Plaintiff's Exhibit 13 for identification: Memo from U.F. Marini to J. P. O'Connell, two pages, dated June 3, 1977.)

BY MR. BLUMSTEIN:

Q Have you had a chance to look at it?

A Briefly, yes.

Q Is that a document that you wrote?

A Yes, sir.

Q The first paragraph seems to be discussing work that the State of Connecticut suggests that you do or require that you do.

Could you tell me a little bit about it?

MS. PERCELL: That's a statement of assumption. You might want to ask the witness whether that's accurate.

MR. BLUMSTEIN: Let me restate it.

BY MR. BLUMSTEIN:

Q The first sentence, "Today we met with Mr. Ed Park and his associate, both of Connecticut DEP, to discuss and review construction of curbing the process area."

Were you at that time engaged in construction of curbing in the process area?

A No. It was at the discussion stage.

1
2 Q Were you at that time under orders from the State
3 to curb the process area?

4 A There was an order issued. I'm not sure if it was
5 before this date or not. There was an order issued.

6 Q What did that order require you to do?

7 A If I remember correctly, it's -- part of the order
8 was to curb the process area.

9 Q Anything else in that order as you remember?

10 A There were a couple of items, but I don't recall
11 what they were.

12 Q Do you know why the State wanted you to curb the
13 process area?

14 A It's only an assumption, to prevent any runoff
15 of water leaving the process area.

16 Q Had the runoff water been leaving the process
17 area prior to that time?

18 A There was no curb in that area.

19 Q Where would the runoff water have gone to?

20 A Off the plant.

21 Q In what direction?

22 A I would say toward the railroad tracks.

23 Q Did you in fact curb the process area?

24 A No, we did not.

25 Q Why not?

1
2 A Why? The State -- right here in the last
3 paragraph, "Mr. Parker indicated another order will be
4 issued requiring additional curbing of the drum area."

5 At that time, we decided to wait and see what the
6 second order would be, Phase II.

7 Q It seems as though curbing the process area was
8 part of the Phase I work?

9 A Right.

10 Q The Phase I work wasn't done when the second order
11 was issued?

12 A Phase I curbing -- the curbing in Phase I was not
13 done.

14 Q Did the State rescind their order that they
15 previously required curbing in the process area?

16 A There were many many meetings and talks between
17 our attorneys and the State's and so on and I was not privy
18 to that. I was not involved in those meetings.

19 The State issued Phase I and at that time, we
20 agreed we would go along with Phase II and all of a sudden,
21 they came back with Phase II and everything was halted, put
22 on hold.

23 Q So, the process area was never curbed?

24 A Never.

25 Q Is that water continuing to run off as you

1
2 previously described?

3 A If we had heavy rainfalls, yes, it would.

4 Q Looking at page 2, the last paragraph talks about
5 Phase II work.

6 "Sometime before 10/31/77, another order will be
7 issued requiring additional curbing (Phase II)."

8 "Phase II will consist of the following: curb
9 drum storage area; reduce drum inventory; store all drums
10 on concrete-additional slabs; increase size of sump and
11 water storage capacity."

12 Do you know why that additional work was being
13 contemplated to be included in a second State order?

14 A All I can say is this. You should ask Mr. Parker.
15 I don't know what the reason was behind the State of
16 Connecticut.

17 Q Was the drum storage area ever curbed?

18 A No.

19 Q What advantage would be gained from curbing
20 Solvent Recovery Services Drum Storage Area?

21 MS. PERCELL: Excuse me. Can I ask
22 if you're asking in the eyes of the State. What's
23 the advantage in the eyes of the State or what
24 advantage in the eyes of this witness?
25

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1
2 BY MR. BLUMSTEIN:

3 Q In your opinion.

4 A I don't see any advantage. I see it puts a dis-
5 advantage, but I'm prejudice. Curbing the whole plant,
6 collecting all the rainwater, you have a problem disposing
7 of that. You see, I see no advantage.

8 Q Do you know what advantage the State saw?

9 A I don't think it's my right to answer for the
10 State. If I give you my opinion, that's my opinion. I
11 don't know what the State -- I have an idea but I don't
12 think it's pertinent, this question. I think it's unfair
13 to answer for the State, Mr. Parker and his group.

14 Q Okay. I won't press on that.

15 The next document is dated June 14, 1977. Notes-
16 Talk with Mr. Edward Parker of the Water Pollution Depart-
17 ment, DEP, State of Connecticut.

18 (Plaintiff's Exhibit 14 for identifi-
19 cation: Notes dated June 14, 1977,
20 one page.)

21 BY MR. BLUMSTEIN:

22 Q Do you recognize these notes?

23 A Yes.

24 Q Do you know who wrote them?

25 A No, I'm not sure. I've seen this before but I

1
2 don't know who wrote this. It could have been. Usually, I
3 put my name on it unless something else was attached to
4 this. I think that's what happened.

5 Q That's all I saw --

6 A Because there's a staple up here (indicating).

7 Q Would you take a look at the third paragraph.

8 The end of this paragraph seems to indicate there has been
9 contamination of the top layer of earth over the years due
10 to the spillage of hydrocarbons.

11 Tell me what area of the plant is being referred
12 to there.

13 MS. PERCELL: Again, if you know.

14 The witness doesn't know who wrote it. He may
15 very well not know what the author intended by
16 that.

17 MR. BLUMSTEIN: He said he recognized it.

18 BY THE WITNESS:

19 A Just the sentence, the area where the drums are
20 stored. We have drums stored throughout the plant.

21 Q Does that mean that the top layer had been
22 contaminated on all those places where --

23 A No. No. A lot of concrete throughout the whole
24 plant.

25 MR. MILLSTONE: Could you repeat that

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again.

THE WITNESS: There's a lot of concrete throughout the whole plant that drums have been stored on. I really think this is unfair because I'm not sure I wrote this. I don't think I did. I don't even know. I doubt I had a meeting with him on June 14th.

BY MR. BLUMSTEIN:

Q But you have seen this before?

A Vaguely, yes.

Q Just talking about the contamination that's referred to in this. Do you know what the sources of contamination --

MS. PERCELL: Objection. You haven't laid a foundation there is any such contamination at all. You have to start with that question before you start asking questions about where it came from.

You have a document that is identified only by being recognized, not by its author or any other authentication and you have no support for the statements contained in it.

BY MR. BLUMSTEIN:

Q Was the top layer of earth or any portion of the

Southington facility contaminated?

MS. PERCELL: Let me interject there that I'm not sure that you have established that this witness has any way of knowing whether the top layer of that earth is contaminated. You may want to explore that area but that may take access to information that this witness doesn't have or expertise that this witness doesn't have.

MR. BLUMSTEIN: I'm asking the witness whether he knows whether there's been any contamination of the top layer of earth.

THE WITNESS: No. There's only an assumption here by Mr. Parker there was.

BY MR. BLUMSTEIN:

Q I would like to introduce a document dated January 9, 1978 from Mr. Marini to Mr. Tatro, subject: Northeast Plant Safety and Housekeeping Inspection.

(Plaintiff's Exhibit 15 for identification: Two-page Memo dated January 9, 1978 from U.F. Marini to A.V. Tatro, subject: NE Plant Safety and Housekeeping Inspection.)

Q Did you write this?

A Yes, I did.

Q Is it correct that this is the result of the inspection you conducted on March 5, '78?

A No. January 5.

Q Excuse me. January 5, '78.

I see that it indicates a rating of 3. Was the rating system used for purposes of this document the same as the previous document?

A Yes, sir.

Q One to ten?

A One to ten, yes.

Q You indicate that, "housekeeping in general is poor and has deteriorated from past inspections."

In what way had it deteriorated from past inspections?

A I think it's explicit. I describe all the area and generally more clutter, nuts and bolts throughout the plant, raincoats in the boiler room. Just plain old clutter, dirt -- not dirt. I hate to use that word -- scrap steel throughout the plant area, too many drums in the area. Just a general cleanup as I indicated in here.

Q Is there a cause for it having deteriorated in the condition from the past May?

A A cause? I would just say poor supervision.

Q Is there any evidence of spillage during this

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2 January 5 inspection?

3 A After reading this memo, there's no indication
4 at all in this memo and if there was, I would have indicated
5 it.

6 Q On the fourth point, you list at the bottom of
7 the first page, "Noticed too many drums not covered and
8 sharp edges exposed."

9 Do you know if those drums were covered after
10 your inspection?

11 A It's only an assumption. I would say they were.
12 I don't know if there's another inspection report dated
13 later than this one. It was instructed to do so, but I'm not
14 there but once a week. I can't answer that question.

15 Q Do you remember whether they were covered over the
16 last week?

17 A I would have to say yes, they were.

18 Q The next I have is a letter from Mr. Edward
19 Babcock to Carleton H. Boll dated April 14, 1978.

20 (Plaintiff's Exhibit 16 for identifi-
21 cation: three-page letter dated April
22 14, 1978 to Mr. Carleton H. Boll from
23 Mr. Edward D. Babcock, Jr.)

24 BY MR. BLUMSTEIN:

25 Q Have you had a chance to look through it?

1
2 A. Yes.

3 Q Have you ever seen this before?

4 A No.

5 Q If you could look at the second page under
6 76-6, there's a recommendation for "Diking for the tank
7 farm should be improved to provide the capacity to contain
8 100 percent of the volume of the largest tank plus 10 per-
9 cent of the aggregate volume of the remaining tanks in the
10 farm."

11 Prior to April 14, 1978, did you ever consider
12 diking the tank farm as recommended here?

13 A This recommendation is not valid at all because
14 prior to this date, the tank farm was diked and properly
15 diked for the regulations. It contained the largest tank
16 plus 10 percent. I don't understand this recommendation at
17 all.

18 Q You're saying that this diking had already been
19 done previous to April '79?

20 A Oh, yes. There before I ever started with the
21 company.

22 Q The capacity at that time was 100 percent --

23 A Yes.

24 Q -- plus 10 percent --

25 A Yes. Yes.

Q I'd like to show you another memo. This one is dated June 2nd, '78 from you to Mr. Tatro, subject: Safety and Housekeeping Inspection."

(Plaintiff's Exhibit 17 for identification: One-page Memo dated June 2, 1978 from U.F. Marini to A.V. Tatro subject: Safety and Housekeeping Inspection.)

BY MR. BLUMSTEIN:

Q Have you had a chance to look at this?

A Yes.

Q This is a document you wrote?

A Yes.

Q That rating system that's indicated, that's the same rating system, one to ten?

A Yes.

Q Paragraph 6 says, "Several drums throughout the plant not covered."

Was it your recollection that those uncovered drums were the same uncovered drums that is referred to in the January 9, '78 memo?

A Could be, except I said "throughout the plant" this time and I remember last time it was in a certain area.

Q Was anything done other than the writing of this

memo to Mr. Tatro to assure that those drums were covered?

A. On future visits, I made inspections like this and if I noted the same type problem, I'd speak to Mr. Tatro privately to discuss the situation with him.

Q. How often did you do the inspections?

A. I tried to get up there once a week. If I got up there once a week, I did an inspection once a week.

Q. Were the uncovered drums something you found regularly?

A. At that time, yes.

Q. Did you write memos similar to this one to Mr. Tatro for every inspection that you performed?

A. No. No, sir. No.

Q. Why did you write a memo sometimes and not other times?

A. Oh, I felt that once in a while it's good to document the inspection and gives me a chance to followup to make sure he was performing -- rectifying the situation in the documentation.

Q. Do you know why drums continued to remain uncovered from week to week?

A. Poor education, possibly. Poor management of the drum situation. It was one of the problems we rectified and corrected.

1
2 Q When did it get rectified?

3 A I would say sometime after these inspections.
4 Continual inspections made people aware that we are looking
5 for that type of deficiencies.

6 Q Do you have an approximate date when the uncovered
7 drums --

8 A No. It was an ongoing thing. It was a program
9 we set up and followed and with a little help from the State
10 also and we just continued on. Made it one of our topics
11 that we just periodically did verbally with the people in
12 the plant and I discussed it either in writing or verbally
13 without Tatro.

14 Q Do you know of any incident when you were with
15 Solvents Recovery where an uncovered drum tipped over?

16 A I don't know of any personally. I haven't
17 visually observed that type of problem but I have heard of --
18 possibly, I've heard of cases that that did happen.

19 Q Do you know how frequently those --

20 A I can't answer that. I have no idea.

21 Q In what way, other than drums tipping over, could
22 the contains of that drum leave the drum, other than the
23 intentional, when putting it into the processing system?

24 A If it's open and you have a rainfall, the drums
25 could overflow.

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Q Have you ever heard of those type situations?

A I have never heard of them, never seen it, but that's an assumption that can be made and a valid assumption that this could be the case.

Q The next document is a handwritten memo labeled "Northeast Plant Inspection - June 7, 1979" with the initials "UFM" at the bottom.

(Plaintiff's Exhibit 18 for identification: Memo dated June 7, 1979 entitled "NE Plant Inspection" and signed "UFM.")

BY THE WITNESS:

A Excuse me. You said Northeast. It doesn't mean Northeast. It's New England.

Q Excuse me.

A You had me confused. This is the third time you said that. NE stands for New England.

Q I stand corrected.

Do you recognize this document?

A Yes.

Q Did you write it?

A I would say so. It's my handwriting.

Q At the time of this inspection, June 7, 1979, did you still use the rating system as you did for previous

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inspections?

A Yes.

Q Do you know why there's no rating attached?

A I didn't give one. It's not in concrete that I have to give a rating. It's my own rating system just for the New England plant and my inspections.

MS. PERCELL: If you'll excuse me for the second time, I'd like to ask the witness to give the questioner a chance to finish the question before you answer. It makes it difficult for the reporter if you interrupt because she has to go back and forth between voices.

Make an effort to let him completely finish what he has to say and it would be easier.

BY MR. BLUMSTEIN:

Q Paragraph 1 in this memo says, "Spill by #1 still."

Do you remember the nature of that spill, where it came from?

A No, sir.

Q Would that have been a spillage from the still itself?

A I doubt it. From the still itself?

Q Yes.

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A I doubt it.

Q But you're not sure of the origin of the spill?

A No.

Q What was done to clean up that spill?

A Our procedure is to absorb the material with sand and shovel it up and put it in drums.

Q Where were the drums taken?

A Landfills.

Q Do you know where the landfills were?

A I think in '79 we went to Cecos in Niagara Falls. At that time, it was called Nuco. I'm not sure of the different names.

Q If you take a look at paragraph 3, it says, "Sludge dike needs to be swept."

A Right.

Q Can you tell me what was in the sludge dike that needed to be swept?

A By reading this, dirt, leaves, things like that.

Q Does the sludge dike receive materials from any other process areas?

A The sludge dike is a dike around the storage tank.

Q Do the sludge dikes ever contain liquid material?

A No.

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Q Where did the stuff that was swept up go to?

3

A In a drum, open-head drum.

4

Q What was done with that open-head drum?

5

A Sent to a landfill.

6

MR. BLUMSTEIN: Let's go off the record.

7

(DISCUSSION OFF THE RECORD.)

8

BY MR. BLUMSTEIN:

9

Q Mr. Marini, do you have any reason why you may not be available, assuming this case goes to trial? Do you have any reason you might not be available at the trial as a witness?

13

MS. PERCELL: Can you clarify the question.

14

15

Do you mean does he personally have any reason? I don't understand.

16

17

MR. CAREY: It's an open-ended question anyway.

18

19

MS. PERCELL: I would think there's a lot more factors than this witness himself could possibly know.

20

21

22

BY MR. BLUMSTEIN:

23

Q As far as you know.

24

A As far as I know, I'll be available.

25

Q Okay. Have you ever heard of a company, New

England Barrel Company?

A. New England Barrel?

Q. Yes.

A. No.

Q. How about a company called Ace Environmental?

A. I've heard of that, yes.

Q. Do they do work for the Southington, Connecticut plant?

A. I've heard the name before and I have to assume it has. I have seen it on some documents. I haven't dealt with those people myself personally.

Q. Do you know what they do?

A. No.

Q. Does Solvents Recovery still use Ace Environmental?

A. No.

Q. Do you know when they stopped using them? Let me ask another question.

Were they still using them when you began at Solvents Recovery?

MS. PERCELL: Objection. If I understood the witness, he testified that he assumed they were using them. I don't know if you have fully laid a foundation for now assuming they were also using them at that particular time.

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1
2 BY MR. BLUMSTEIN:

3 Q Have you ever heard of a company by the name of
4 Jonas Waste Removal?

5 A Yes.

6 Q Did they ever perform any services --

7 A That I can't answer. I heard of the company's
8 name.

9 Q In what context have you heard of them?

10 A Just as a matter of talk.

11 Q But you don't know whether they ever served --

12 A No. No idea at all.

13 Q I'd like to introduce another document. At the
14 top it says, "Ace Environmental - waste & oil removal."

15 (Plaintiff's Exhibit 19 for identifi-

16 cation: thirteen-page document entitled

17 "Ace Environmental.")

18 BY MR. BLUMSTEIN:

19 Q Have you had a chance to look at that?

20 A Yes.

21 Q Do you recognize any of the pages in this document?

22 A The only thing I recognize is that it's our bills
23 of lading, Solvents Recovery Service of New England bills
24 of lading.

25 Q But the particular bills of lading that are

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1
2 attached, you haven't seen?

3 A Not at all.

4 Q What appears to be a bill from Ace Environmental
5 on the first page, you have not seen that before?

6 A No, I have not.

7 Q Okay. I believe you previously testified that
8 you are at least somewhat familiar with Ace Environmental,
9 is that correct?

10 A I've heard of the outfit before, yes.

11 Q Do you know if Ace Environmental ever went by
12 any other names beside Ace Environmental?

13 A To the best of my knowledge, the only one I know
14 about is Ace.

15 Q Have you heard of the Ace Septic Tank Service?

16 A No. I assume one in the same. No, I have not.

17 Q Okay. On the first page and I realize you haven't
18 seen that document before, but on the first page if you
19 could look at that.

20 It appears as though they are billing Solvents
21 Recovery Service for three different services.

22 Is that your understanding of what's on this
23 first page?

24 A Three different entries in here, yes.

25 Q Stepping aside from that document for a moment,

do you know what services Ace performed for Solvents?

A They removed drums from the plant and removed some waste water from the plant.

Q What types of waste would they remove from the plant?

A What types of waste?

Q From what processes?

A They were sludge still bottom-type of material.

Q Is it still bottom after the distillation process is completed?

A Yes.

Q Sludge still bottom is the same as still bottom?

A The same. Sludge still bottom, the same.

Q Would they be disposed of in drums, this sludge still bottom?

A At that time, yes.

Q You also mentioned the disposal of waste water.

A Right.

Q What is the waste water from?

A When we dry the recovered material, we remove water to a certain specification. Sometimes free water and sometimes we take water out, calcium chloride, that type of water removal.

Q Let me get this straight. Is this water that was

1
2 within the solvent that's brought to you for recycling?

3 A It's water that was in the recovered material
4 after we flashed the material.

5 Q After flashing, a further step?

6 A Yes.

7 Q The recovery of reusable solvents is to remove
8 the water?

9 A Yes.

10 Q Any other types of waste water generated?

11 A If there is free water on the material, insoluble--
12 water that's not soluble, take the free water off.

13 Q At what point in the process would that free
14 water --

15 A You get some free water coming overhead with the
16 solvent.

17 Q In what form would that waste water be disposed
18 of?

19 A As it's indicated here, it would be in a bulk
20 form.

21 Q What do you mean by bulk form?

22 A Tanker, tank truck.

23 Q Looking back to the first page of this exhibit,
24 where it says "removed 1827 drums to dispose of at \$4.00
25 each," were those drums drums of sludge still bottom?

MS. PERCELL: If you know.

A I can't answer. It's 1827 drums. I don't know what they're compiled of.

Q Did Ace dispose anything for Solvents Recovery, to your knowledge, other than drums of still bottoms and waste water, in particular?

A I guess basically I'm trying to figure out what the third entry is on this page. It looks like "L.E.I. or I.E.I. removed."

A I cannot answer that. I can't help you with that, "I.E.I." I don't know what it stands for.

Q To your knowledge, did Ace remove anything from Solvents other than drums of sludge still bottoms and waste water?

A And some sludge still bottoms that were not put into drums, in bulk form.

Q In tankers?

A Tankers, yes.

Q Any other form?

A The only two forms I'm aware of, drums and bulk.

Q Looking at the bills of lading, each one seems to indicate that the destination was Bristol, Connecticut.

Q Were you aware that the material that Ace took went to Bristol, Connecticut?

0006352

1
2 A I've heard from the people in the plant itself
3 that it did go to Bristol, yes.

4 Q Do you know where in Bristol it went to?

5 A No. No idea at all.

6 Q So, your understanding was simply that it went to
7 some place in the City of Bristol, Connecticut; in other
8 words, a public outlet or private --

9 A Went to Bristol.

10 Q By Bristol, what do you mean?

11 A Bristol, Connecticut.

12 Q Some place in the City of Bristol?

13 A Yes.

14 MR. BLUMSTEIN: I would now like to have
15 three documents marked as exhibits. All are
16 dated July 28, 1977.

17 The first is a letter from William D.
18 Hegener to Solv, Incorporated.

19 The second is a memo by J. P. O'Connell
20 of a conversation with Uly Marini.

21 And the third is a memo from J. P.
22 O'Connell to C. J. Bown.

23 (Plaintiff's Exhibit 20 for identifi-
24 cation: Four-page letter dated July
25 28, 1977 from William D. Hegener to

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Solv, Inc.;

Plaintiff's Exhibit 21 for identification: Memo entitled "Conversation with Uly Marini" dated July 28, 1977 from J. P. O'Connell;

Plaintiff's Exhibit 22 for identification: Memo dated July 28, 1977 from J. P. O'Connell to C. J. Bown, two pages, subject: Disposal-New England.)

BY MR. BLUMSTEIN:

Q Have you had a chance to look at all three of them?

A Yes.

Q Starting with Exhibit 20 which is the one on the State of Connecticut letterhead, tell me whether you recognize that document.

A No, I do not.

Q And how about Exhibit 21, the memo of J. P. O'Connell of a conversation with Uly Marini?

A I don't recognize the document at all.

Q And the third document?

A Yes, this document. Yes.

Q Going back to 21, do you remember a conversation on July 28, 1977 with Mr. O'Connell?

1
2 A No, I do not.

3 Q On July 28, '77, do you know for a fact that the
4 State of Connecticut had observed that Ace Environmental
5 was discharging solvents from Solvents Recovery Service at
6 a Bristol landfill?

7 MS. PERCELL: I have to make an
8 objection. I've heard the name Ace Environmental.
9 You really haven't clarified that Ace Septic
10 Tank and Ace Environmental are the same.

11 And the document in front of me says
12 Ace Septic.

13 You can go ahead and answer the question.

14 BY THE WITNESS:

15 A I can't recall after reading this document here.
16 It indicates I was told on that date but I don't recall.

17 Q You don't recall what?

18 A If on July 28, '77 I was aware that Ace, you
19 said, Environmental was cut off.

20 Q Did you become familiar with that situation at some
21 point?

22 A Yes.

23 Q About when was that?

24 A I can't say.

25 Q Approximately around July 28th, '77?

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1
2 A It's an assumption. I would say yes, in that
3 area, the summer of '77.

4 Q Do you know what a 25-54hh Permit is?

5 MS. PERCELL: Can you indicate that
6 on one of these documents?

7 Q Exhibit 20, third paragraph, it says that "...I
8 consider this to be inappropriate ultimate disposal and is
9 contrary to the conditions of the 25-54hh Permit issued to
10 Ace Environmental."

11 A I can't answer that question because I wasn't
12 privy to permits issued to Ace Environmental. I've never
13 seen a permit issued to Ace Environmental.

14 Q Have you ever heard of the 25-54hh Permit?

15 A Yes, because we have one.

16 Q What's that permit?

17 A It's a permit to operate.

18 Q To permit what?

19 A Our plant as transporters, I think it is.

20 Q Do you know why the State of Connecticut stated
21 in Exhibit 20 that they consider this to be inappropriate
22 ultimate disposal?

23 A I have no idea at all.

24 Q In looking at Exhibit 22 which is the one you
25 said you're familiar with, the first two sentences, "Effective

0006356

1 immediately, no disposal business will be taken into New
2 England without my approval. This is a result of our being
3 cut off by Ace."
4

5 Do you know what Mr. O'Connell meant by being
6 "cut off by Ace"?

7 A That Ace cannot take any of our material.

8 Q What was Mr. O'Connell's instruction regarding
9 work previously handled by Ace?

10 MS. PERCELL: Outside of this memo?

11 Q No, in the context of this memo when he talks
12 about "... no disposal business will be taken into New
13 England without my approval."

14 Is it correct that the disposal business prior to
15 that date had been taken into New England and somehow ended
16 up with Ace?

17 A What Mr. O'Connell meant by this memo is that
18 material brought into the plant be pumpable and flammable
19 that we can send to Solite or Keystone which are cement
20 plants.

21 Q Prior to July 28, 1977, what was meant by
22 disposal business?

23 MS. PERCELL: What was meant by
24 disposal business by J. P. O'Connell in writing
25 this memo, is that what you're asking? It's

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1
2 obviously a broad term and meant different things
3 to different people at different times.

4 This witness may have an understanding
5 of what J. P. O'Connell meant in that sentence
6 and may have an understanding of what that phrase
7 is. In asking the question, you should give some
8 kind of --

9 MR. BLUMSTEIN: I'll rephrase it.

10 BY MR. BLUMSTEIN:

11 Q Prior to July 28, 1977, did the term disposal
12 business have some general understanding among Solvents'
13 employees?

14 A Disposal business is business that's brought in
15 from a customer on a disposal basis. They don't want the
16 material returned to them. They don't want their material
17 recovered and shipped back to them. Take the material from
18 that plant, remove it from that plant and take it to our
19 plant.

20 Q For you to do whatever you wanted with it?

21 A Right.

22 Q How would Ace be used in relation to your
23 disposal business?

24 A Ace had nothing to do with the disposal business.
25 They were not tied in together as such.

Q Is there, then, a relationship between the fact that you were cut off by Ace and Mr. O'Connell's statement that no disposal business would be taken into New England without his approval?

A I don't know exactly what Mr. O'Connell had in mind. But the material that was brought in, effective this date, was material that was pumpable and flammable, material that could be pumped and we can blend.

Q In other words, you wouldn't accept disposal business which didn't consist of pumpable/flammable material?

A Right.

Q The sludge still bottoms and waste water resulted only from the disposal business?

A No.

Q How about after July 28, 1977, were sludge still bottoms and waste water still generated in Southington?

A Can you repeat that question.

Q After July 28th, 1977, was sludge still bottom and waste water still things that were generated at the Southington plant?

A Yes.

Q What was done with those materials after Ace was cut off?

A The still bottoms were blended and pumped to a

1
2 tank, blended and shipped to Solite or Keystone.

3 Q How about the waste water?

4 A The waste water was -- the free water, clear water
5 was returned back to the cooling tower at that time and the
6 balance of the water taken down to New Jersey for treatment.

7 Q On page 2 of Exhibit 22 are a list of companies.
8 At the top there's a heading "Letters Sent To." Are those
9 companies who Mr. O'Connell wanted informed that their
10 material couldn't be accepted if it wasn't flammable and
11 pumpable?

12 A I can't answer that. I don't know his reasoning
13 and I don't know why this list was included.

14 Q Do you know whether Solvents had dealings with
15 companies listed on that second page after July 28, 1977?

16 A Yes. Some of them, yes.

17 Q Am I correct that you don't know whether the
18 companies on the second page is a list of the disposal
19 customers?

20 A You asked me what was Mr. O'Connell's reasoning
21 behind that. I don't know. Now you're asking me a different
22 question.

23 Q Let me ask the question again.

24 Are the list of companies on the second page
25 disposal customers?

1
2 A No. Some of them are Recovery customers. I can't
3 tell you which ones were disposal and which Recovery but I
4 imagine certain ones are Recovery customers.

5 Q Is it possible that some of the companies had
6 disposal business with Solvents?

7 A Possible.

8 Q You mentioned Keystone and Solite --

9 A Yes.

10 Q -- as cement companies.

11 First of all, would you identify these companies,
12 where they're located?

13 A Keystone is in Pennsylvania and Solite has several
14 locations. One in Upstate New York and one in Virginia.

15 Q And both Keystone and Solite are cement companies?

16 A Yes.

17 Q That manufacture cement?

18 A Yes, some form of cement, yes.

19 Q Why was Solvents dealing with Keystone and Solite?
20 Did Solvents send particular materials to Keystone and
21 Solite?

22 A Solvents supplied to either Keystone or Solite
23 a fuel blend that had certain BTU value and it substituted --
24 used it in place of fuel oil or coal.

25 Q What types of things were part of this fuel blend

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1
2 that was sent to Keystone and Solite?

3 A. Nonallogenated hydrocarbons.

4 Q Are these nonallogenated hydrocarbons solvents
5 or --

6 A. Solvents.

7 Q Not still bottoms?

8 A Wait a minute. Still bottom is a solvent, just a
9 nomenclature. It's a solvent.

10 Q The materials that were sent to Keystone and
11 Solite, did Solvents sell those products to those companies
12 or did Solvents pay those companies to take it from them?

13 A Both ways. One outfit paid us; another outfit
14 we paid them.

15 Q Do you know why one company felt it was in their
16 interest to pay for the material while the other company
17 had to be paid to take it?

18 A That's for management of the other companies. I
19 can't answer that.

20 Q In Exhibit 22 when the fuel program is referred
21 to, what is being referred to, the sending of these fuels
22 to Solite and Keystone?

23 A Yes. The fuels program as I defined before is
24 a blend, a fuel blend and it's shipped to one of these two
25 outfits.

1
2 Q When did that activity begin, sending fuel to
3 Keystone and Solite?

4 A I don't know the exact date. According to this
5 letter, it started soon after this.

6 Q It hadn't started to your recollection on July
7 28, '77?

8 A Excuse me?

9 Q It hadn't started by July 28, '77, it was sometime
10 after July 28 when that started?

11 A I can't answer that question. I know it started
12 sometime after this according to the memo but what was done
13 prior, I don't know. I can't answer that. It might have
14 been done prior to different outlets. I don't know.

15 Q How long did this fuels program continue? Is it
16 still continuing?

17 A Still is. It's very viable and a program we have
18 now.

19 Q With Keystone and Solite?

20 A And a couple of others, yes.

21 Q I would now like to show you a two-page document
22 consisting of bills from Ace Septic Tank Service and Ace
23 Environmental.

24 Do you recognize any of these bills?

25 A I recognize my initials on there.

Q Do you have any recollection of seeing them?

A No.

Q Do you know what your initials on those pages signify?

A Approved payment.

Q That you approved payment?

A Yeah.

Q What service was it that Ace Environmental and Ace Septic were billing you for?

A According to the bill itself, it was waste water.

Q Is that on all three of the bills included on these two pages?

A No, it's not on this one in the back.

Q Excuse me?

A There's no indication of anything typed on there saying waste water, on the bills on the second page.

Q Do you know what it was billed for on that second page?

A No.

Q I see on the bill on the second page it indicates it was paid 9/78.

In the lower right hand corner, it talks about sludge bulk removal.

Do you know what that signifies?

1
2 A This is -- we have cost centers to charge out the
3 different monies we pay out and that's the cost center --
4 that we were charged for removal of waste water, sludge and
5 so on.

6 Q Something that comes under the sludge bulk
7 removal account, could be either sludge still bottoms or
8 waste water?

9 A Yes.

10 Q After July 28, 1977, in what capacity was Ace
11 used by Solvents?

12 A What capacity? What was that date you gave me?

13 Q July 28, 1977, the date on the previous document
14 where it indicates that Solvents had been cut off by Ace.

15 A I would say waste water according to the
16 indication on these bills.

17 Q How did Solvents come to do business with Ace
18 after the cutoff on July 28, '77?

19 A I can't answer that. I have no idea.

20 Ace had a health concern up there and contacted
21 periodically with our plant people.

22 Q Do you know if Ace received a 25-54hh Permit after
23 July 28, '77?

24 A I do not know.

25 Q Do you know if there was a period of time after

July 28, 1977 in which Solvents had no dealings with Ace?

A. No official dealings with Ace?

Q. Right.

A. All I can assume, for a year we had none at all according to the document you showed me and went from '77 to '78, so about a year.

Q. Is that an assumption you're making or is that your recollection?

A. No, an assumption.

Q. From looking at these documents?

A. Yes.

Q. Going back to the period around July 28, 1977 after Mr. O'Connell said you were cut off by Ace, do you remember if you stopped dealing with Ace right at that time?

A. I would say we did.

Q. At the times of these later bills in '78, do you know where Ace was bringing the material they picked up from you?

A. No.

Q. Do you know whether any of Solvents' material went to the Town of Bristol after July 28, '77?

A. I have no idea.

Q. When I was reviewing some of these documents, I saw that some of the earlier bills, the bills prior to

1
2 July of '77, that attached to the bills were Solvents
3 Recovery Service's bills of lading.

4 I don't see those in the later bills, like the ones
5 I have just showed you.

6 Do you know if Solvents Recovery Service stopped
7 using bills of lading after that?

8 A No. Our procedures have not changed.

9 Q You wouldn't know why I didn't have bills of
10 lading attached?

11 A No, I can't answer that.

12 Q I want to introduce a document dated August 2nd,
13 '77 from Mr. Marini to Mr. O'Connell. It's labeled "Status
14 of Disposal Problem Discussed with JPOC on 7/28/77."

15 (Plaintiff's Exhibit 24 for identifi-
16 cation: A two-page memo dated August
17 2, 1977 from Mr. Marini to Mr. O'Connell
18 entitled "Status of Disposal Problem
19 Discussed with JPOC on 7/28/77.")

20 BY MR. BLUMSTEIN:

21 Q Have you had a chance to take a look at that?

22 A Yes.

23 Q Did you write this memo?

24 A Yes, I did.

25 Q What is the disposal problem that's referred to in

1
2 the title?

3 A The only thing I can recall is it's pertaining
4 to another memo about the same time we were cut off from
5 Ace. Pertaining to the memo that Bown just wrote.

6 Q Which was Exhibit 20?

7 A I'm not sure.

8 (Handed document) Yes, I would say that was it.

9 Q So, the disposal problem resulted from the fact
10 that you were cut off by Ace?

11 A The disposal problem occurred due to the fact that
12 we -- yes, that we were cut off by Ace, yes.

13 Q Did Ace inform you that they were cutting you off?

14 A I don't recall. They didn't inform me personally.
15 Somehow John O'Connell got word back from the State or some
16 place. According to John's letter, that's where he got the
17 information from.

18 Q It's possible that Solvents didn't learn of the
19 cutoff directly from Ace?

20 A Anything's possible. I didn't hear myself, but
21 anything's possible.

22 Q In the first paragraph, in the last sentence,
23 it says, "Major portion of the chlorinateds will have to be
24 disposed elsewhere (Ace Environmental or Liquid Engery)."
25

1
2 Were you still contemplating the use of Ace even
3 after the cutoff?

4 A It would seem that, according to that memo. I
5 don't recall it, but it would seem that.

6 Q Do you recall why you still considered Ace?

7 A No.

8 Q Or in what context you considered using Ace?

9 A No, I have no idea.

10 Q The chlorinateds that you referred to in that
11 sentence were things that couldn't go to the fuels program?

12 A Correct.

13 Q So they would have to be disposed of somewhere?

14 A Yes.

15 Q But you indicated also in that paragraph, "We
16 will blend the chlorinated solvents and alcohol in such a
17 manner as not to jeopardize heating value."

18 What does that mean?

19 A That means we blend -- the composition is such
20 that we can still send the material to the cement plant and not
21 jeopardize the quality of the material.

22 Q So they might contain some amount of chlorinateds?

23 A Yes, that's allowable.

24 Q But too many chlorinateds, it wouldn't have its
25 value?

1
2 A There is certain specifications you have to meet
3 for the fuel blends, one, the BTU and the other is free
4 chlorine.

5 MR. CAREY: Excuse me for a moment.

6 In the four line of paragraph 1 --

7 THE WITNESS: Right.

8 MR. CAREY: -- the word heating
9 valve appears. Is that a misprint?

10 THE WITNESS: Yes. It should be value.

11 BY MR. BLUMSTEIN:

12 Q On August 2nd, 1977, you were still generating
13 chlorinateds that couldn't go in the fuels program?

14 A No. We still had a certain amount of chlorinateds
15 in the plant that would have to be eventually blended in the
16 fuels program, but -- there is a small quantity you can
17 blend at any one time. I can't blend a large quantity.

18 Q What did you mean by major portion of the
19 chlorinateds would have to be disposed elsewhere?

20 A I don't know the intent of that statement. I
21 don't recall what I meant at that time.

22 Q Who was Liquid Energy?

23 A I don't know. I can't remember at all. I don't
24 remember even dealing with them. In fact, I was going to
25 ask you. You have all my documents. I don't remember why

1
2 I put them in there.

3 Q I don't remember.

4 MR. CAREY: I object to the form of
5 the question.

6 MR. BLUMSTEIN: Let's go on.

7 BY MR. BLUMSTEIN:

8 Q Let me take a look at paragraph 4 and 5.

9 A Okay.

10 Q You talk about sending out -- sending certain
11 waters, clean waters and salt water to landfills in New
12 Jersey and Connecticut.

13 First off, where did the clean water come from?

14 A I think I explained it to you before. When you
15 flash material, overhead water will come over and some
16 portion of the time it's not soluable in a solvent and you
17 have two phases, free water and solvent.

18 The free water which was the clean water is
19 decanted off and pumped back to the cooling tower which I
20 indicated to you before.

21 Q And the salt water?

22 A Salt water is the water that's generated from
23 removing the water that's soluable in the solvent. Dry it
24 with calcium chloride which we call salt water.

25 Q In this memo, you're saying that "Other waters

will be sent to landfill in New Jersey or Connecticut."

Of those waters, they have some amount -- other than clean waters then?

A. Yes.

Q. Do they have some amount of solvent in them?

A. Yes, yes.

Q. What's the landfill in New Jersey or Connecticut you're talking about?

A. I don't understand what I meant there, but that water went to New Jersey and was treated in New Jersey.

Q. Where in New Jersey?

A. In our Linden facility.

Q. The same with the salt water?

A. Yes.

Q. So, you don't know what the landfill in Connecticut would have been?

A. No.

Q. The next document I'd like to show you is dated November 9, 1977 and it's a letter from Bill Hegener to John P. O'Connell.

(Plaintiff's Exhibit 25 for identification: a two-page letter dated November 9, 1977 from William D. Hegener to John P. O'Connell.)

1
2 BY MR. BLUMSTEIN:

3 Q Do you recall seeing this document?

4 A No.

5 Q It seems to say "copy to UM" in the upper right
6 hand corner.

7 A I cannot deny that, but I don't recall the
8 document.

9 Q Have you ever heard of Edward Angelillo?

10 A Yes, I have.

11 Q Is he somebody Solvents had a contract with for
12 certain work for them?

13 A We didn't contract but he had performed work for
14 us, yes.

15 Q What type of work?

16 A Removal of dirty drums that contained some
17 residue.

18 Q Do you remember what period --

19 A Hold it. Also scrap steel.

20 Q Dirty drums and scrap steel?

21 A Yes, like pipes.

22 Q During what period of time was he used by Solvents?

23 A All I can answer is from the time -- I remember
24 him from the time I started with the company. I got involved
25 with the plant sometime in the end of '76.

Q And has some activity continued with him?

A Yes, it has.

Q Are you unfamiliar with the fact that the State informed Mr. O'Connell that Mr. Angelillo didn't have a 25-54hh Permit?

A I'm not familiar with that.

Q You're familiar with --

A Start all over again.

Q Okay. I think it was a little confusing.

If you look at the first page of Exhibit 25, second sentence, "You will note that Mr. Angelillo does not have a 25-54hh Permit for the transportation of and disposal of chemical liquids and that he collected some of the barrels and chemicals at your facility."

On November 9, 1977, did you understand that Mr. Angelillo did not have a 25-54hh permit?

A On November 9 I doubt it. Possibly when I got the copy of this memo I was aware of it. I doubt I got the memo on November 9. You're asking me on November 9, the date this letter was written. I was not aware of it. Once I got a copy of the memo, I was aware of it.

Q Do you feel that at some time, not too long after November 9, you became aware of that, that he didn't have a State permit?

1

2

A Yes.

3

Q What response was made by Solvents Recovery as a result of knowing that he didn't have a permit?

5

A To the best of my knowledge, we stopped sending drums until the State gave us the go-ahead to do it.

7

Q When did the State give you the go-ahead?

8

A I don't recall. I know they gave us the go-ahead to do it. Got the okay.

10

Q So, a matter of months, years?

11

A I can't answer. I know it's not years.

12

Q It's possible it was within a few months?

13

A Possible.

14

Q Okay. I guess you stated before you did some business with a company called Nuco?

16

A Yes.

17

Q Where was that?

18

A Nuco was a secure landfill located in Niagara Falls which is now called Cecos.

20

Q What materials were sent there?

21

A Nonpumpable-type materials and drum sludge still bottoms that were not pumpable.

23

Q Including chlorinateds?

24

A Yes.

25

Q When did you start using Nuco?

1
2 A Geez, I don't know when. I have no idea. Just
3 guessing.

4 Q After you arrived in the employ of Solvents?

5 A After -- excuse me. After I arrived?

6 Q Right.

7 A I know after I arrived that I was involved. Maybe
8 they used them earlier. I can't answer that.

9 Q Were they using them at the time you did arrive?

10 A I don't think so.

11 Q How about a company called CEA? Have you heard of
12 them?

13 A CEA?

14 Q Yes.

15 A Yes.

16 Q Who are they?

17 A They are a firm in Pennsylvania that we just
18 started dealing with in the last year or so.

19 Q And what are you dealing with them?

20 A We ship them Solv Fuel which is the fuel blend.

21 Q They use it as fuel?

22 A Yes, use it as fuel.

23 Q Similar to Solite and Keystone?

24 A Yes.

25 MS. PERCELL: Let me interject that I

haven't raised any objections to this very lengthy line of questioning, but I'm hoping to get back to some things that is distantly related to the lawsuit. I find it difficult to imagine how the use of a particular company in the last year for shipments of Solv Fuel could be connected with the issues underlying in this lawsuit.

I'm expressing a hope that you'll go back to some relevant --

MR. BLUMSTEIN: Only in the last question did we talk about the company that was used as recently as last year.

BY MR. BLUMSTEIN:

Q I would like to introduce another document, six pages of handwritten notes. Four of the pages appear to be notes to Uly and one is a note from Uly to MHS.

(Plaintiff's Exhibit 26 for identification: a six-page handwritten document.)

Q Do you recognize these notes?

A No.

Q How about the third and fourth pages of this --

A Which one is that?

Q The third and fourth where it says "From the

desk of --

A I should recognize that. That's my handwriting.

Q Who's MHS?

A Myron H. Smith.

Q But you don't remember these letters at all?

A No, I don't.

Q Would you look at the second page at the very bottom, number 3. It says, "Disposal business, which generates partially filled #3 drums is of considerable value to us."

Now, making the assuming these were written, all three of these were written in March of '80 -- and I'm making that assumption as a result of the third page where it says March 8, 1980. Would you agree with that assumption?

MS. PERCELL: I haven't had the time to completely read those, but I can't see where you reached a conclusion that they were related.

MR. BLUMSTEIN: When you do read them, it appears as though the second two pages are responding to the first two and --

MS. PERCELL: The only thing we know is the author of the first one and the first name is Mike.

The only thing about the second one is

that it's addressed to someone named Myron Smith.

Unless the witness knows of some connection, I don't see it.

MR. CAREY: The first appears to bear the date of March 6 of an unspecified year.

MR. BLUMSTEIN: And the second Mr. Marini has already said is his handwriting.

MR. CAREY: Perhaps if the witness were asked if he knows who wrote the first one or who Mike is.

THE WITNESS: Are you going to ask that one?

BY MR. BLUMSTEIN:

Q Do you know who wrote the first one or who Mike is?

A Yes.

Q Who's Mike?

A Mike Smith.

Q Is Mike Smith the same as Myron Smith?

A Yes.

Q In March of 1980, was there an understanding among Solvents Recovery employees as to what the disposal business was?

A Yes.

1

2

Q And what was that?

3

4

5

6

A The same understanding as I mentioned to you before. Business brought in from different outlets or from different companies that were brought in for disposal. The company did not want the material returned back to them.

7

8

9

We brought it in, removed it from their plant and brought it in our plant and determined at that time what we would do with it, what would be the final disposition.

10

11

Q Oh, at that time the disposal business did make up a part of your business?

12

A No question.

13

Q What is a number 3 drum?

14

15

A A number 3 drum is a drum that contains non-pumpable residue and in excessive of one-third of the drum.

16

17

18

Q Have you ever heard of Solvents Recovery having disposed of some of its waste from Southington on a piece of property called the Cianci property?

19

A No.

20

Q You never heard of it?

21

22

23

A Wait a minute. Hold it. You asked me if I ever heard of Solvents disposing on Cianci property and I said no, I never heard of that.

24

25

Q How about a piece of property called the Marek property?

0006380

A. No.

Q. How about a piece of property called Flanders Green Apartment Complex?

A. The what?

Q. Flanders --

A. No, no.

Q. Do you know if Solvents Recovery ever disposed of any waste on the banks of the Quinnipiac River?

A. To my knowledge, never.

MR. BLUMSTEIN: I don't have any other questions.

MR. CAREY: Off the record.

(DISCUSSION OFF THE RECORD.)

CROSS-EXAMINATION

BY MR. MILLSTONE:

Q. Let me just direct your attention to Exhibit 26 from a variety of people and one is addressed to you dated 3/10 and discusses the issue -- at the bottom of this page -- of the disposal of vinyl still bottoms.

What are vinyl still bottoms?

A. They are still bottoms, such we cannot use in the fuels program. When blended together, they react and they form a stringy-type solid-type of material, so we cannot use them.

Q Do those contain vinyl chlorides --

A It could.

Q What's done with those?

A At this particular time?

Q At the time of the writing of these?

A They were sent to Cecos or at that time, Nuco or Cecos in Niagara Falls.

Q And before that?

A Before that?

Q Before they were sent to Nuco.

A A couple of years before that, they were sent to Nuco also.

Q All during the time that Solvents Recovery Service of New England handled vinyl still bottoms, they were sent to Nuco?

A From day one?

Q Yes.

A No, not from day one.

Q When you first came to work there, what was done with the vinyl still bottoms?

A They were shipped to Ace.

Q Do you remember when you began shipping the vinyl bottoms to Nuco?

A I have no idea. Just be a guess. I don't remember.

1
2 A couple, three years ago I would say at least.

3 Q Three years would be 1979.

4 A Like I say, it's speculation. It's a guess. A
5 couple, three years ago.

6 Q Directing your attention to Exhibit Number 19 on
7 the second page, just as an example, the Uniform Straight
8 Bill of Lading original, was it the practice of Solvents
9 Recovery Service to use bills of lading such as this when
10 shipping materials to customers?

11 A Our procedure was when anything left the plant, a
12 bill of lading would accompany it, to answer your question,
13 yes.

14 Q So, shipping to a customer, the trucker would get
15 a bill of lading?

16 A Yes.

17 Q And you would keep a copy of that?

18 A Yes.

19 Q Directing your attention to Exhibit 18, and to the
20 map which had been previously introduced as Exhibit 3, I
21 believe -- Exhibit 2 -- I stand corrected -- could you
22 indicate or could you tell me where on the map the sludge
23 dike is.

24 It says here on number 3 -- where is the sludge
25 dike?

1
2 A It's H on the map.

3 Q Where's the sludge dike?

4 A It's a dike around that sludge tank. There's
5 indication of the tank right there (indicating).

6 Q Was it a large big wall?

7 A It's a dike wall.

8 Q What's it made of?

9 A Concrete, concrete wall and concrete floor.

10 Q And this sludge dike entirely surrounds this
11 circular tank?

12 A Yes.

13 Q Where are the freshwater and waste water stored
14 while awaiting pickup?

15 A We had a tank up in the storage tank farm area,
16 up here in this area (indicating). Tank number 8, which
17 looking at this, I can't tell you which was tank number 8
18 but one of the ones on this side (indicating).

19 MR. MILLSTONE: May the record reflect
20 the witness is referring to an area marked on
21 Exhibit 2 as "I".

22 BY MR. MILLSTONE:

23 Q Were, then, both the free water and the waste
24 water stored together?

25 A The free water as we put it in here (indicating)

1
2 was then pumped -- the free water decanted off in this room
3 right here (indicating). There's no letter on this room
4 here. It's indicated on the drawing "existing building"
5 and that free water is then pumped to the cooling tower
6 which sits on top of that building.

7 Q And then what happens to that free water?

8 A It's used to cool our heat exchanger. It's a
9 closed system.

10 Q Where were the still bottoms and sludge stored
11 for Ace to pick up?

12 MS. PERCELL: Can you give some
13 indication of a period of time on that.

14 BY MR. MILLSTONE:

15 Q Well, prior to '77 I guess. I'm curious about
16 prior to the time that Ace was in some sense, was sent to
17 Coventry, prior to July 28, '77 when Ace was picking sludge
18 and still bottom.

19 Where were you putting them?

20 A In drums and then -- or a tank truck. You said
21 prior to '77?

22 Q Up to July 28, '77.

23 A Right.

24 Q Where were you storing the still bottoms?

25 A In drums.

Q As I remember it, the still bottoms are the sort of -- not a very fluid sludge but you nonetheless decanted them somehow in the drums?

A In other words, put drums underneath the drum valve of 3 and 6, drop it in the drum, seal the drum up and move it out.

Q And also store in a tank truck?

A If it was something that was pumpable, pumped into a tank truck.

Q And when Ace came to pick up the stuff, you'd pump it out of the tank truck or take the tank truck away?

A No, pump it out.

Q Directing your attention to Exhibit 15 -- I'm sorry -- Exhibit 16, the underwriter's report.

Page 2, appears to be attached to that some sort of report of an engineer.

Have you had any experience with fires at the Southington plant?

A No, not in my time.

Q In the New Jersey plant?

MS. PERCELL: Objection. Relevancy.

MR. MILLSTONE: Noted.

MS. PERCELL: Why don't you clarify what your question is.

1
2 BY MR. MILLSTONE:

3 Q I'm curious as to what has been your experiences
4 with fires or explosions at Connecticut or New Jersey plants.

5 MS. PERCELL: I'll object and instruct
6 the witness not to answer any questions related
7 to the New Jersey plant.

8 MR. MILLSTONE: On what grounds?

9 MS. PERCELL: Relevancy. It has doing
10 to do with the lawsuit.

11 MR. CAREY: Is it privileged?

12 MS. PERCELL: We might clarify that
13 question further as to privilege. I don't see any
14 relevance to this line of questioning whatsoever.

15 Let me clarify on the record that as I
16 understand this lawsuit, it's a lawsuit involving
17 groundwater pollution located in the State of
18 Connecticut in one particular facility and I cannot
19 conceive of the relevance of experience with or
20 the occurrence of fires in another state to this
21 lawsuit.

22 And on that ground, I instruct the
23 witness not to answer any questions relating to
24 the New Jersey facility.

25 MR. MILLSTONE: I would like to get an

1
2 answer to these questions.

3 MS. PERCELL: If you like, you can put
4 any further questions you have on the record and
5 give me the opportunity to object to them.

6 MR. CAREY: She's instructed him not
7 to answer.

8 MR. SANTORO: Off the record.

9 (DISCUSSION OFF THE RECORD.)

10 MR. CAREY: You have instructed him
11 not to answer any questions about the New Jersey
12 facility?

13 MS. PERCELL: That's correct.

14 MR. CAREY: That's totally unlimited--

15 MS. PERCELL: He was asked a specific
16 question and I objected to that question and I
17 instructed the witness not to answer.

18 MR. CAREY: Just this specific
19 question?

20 MS. PERCELL: Fine.

21 BY MR. MILLSTONE:

22 Q Directing your attention to item 78-1--

23 A Excuse me --

24 Q The recommendations on Exhibit 16. At the time
25 these recommendations were made, had you or anyone connected

1
2 with the company, to your knowledge, have experience with
3 fires or any similar sorts of occurrences in the course of
4 your business?

5 A. Since the time --

6 MS. PERCELL: I'm sorry. I wasn't
7 listening.

8 Could you read back that question.

9 (The question referred to was read.)

10 MS. PERCELL: Let me direct the
11 witness to limit his question in accordance with
12 my prior objection to the Connecticut facility.

13 MR. MILLSTONE: But the question is not
14 related to the Connecticut facility. It's
15 related to the experience of the management of the
16 company.

17 MS. PERCELL: We haven't even
18 established the foundation for this document
19 since it was something the witness didn't
20 recognize.

21 On its face, it appears to be
22 recommendations made by a certain individual, but
23 we don't even know that to be a fact. I think
24 we're going awfully far afield here.

25 MR. MILLSTONE: Let me withdraw that

1
2 line of questioning in the fact of the persistent
3 reluctance to gain such testimony that I'm
4 looking for.

5 BY MR. MILLSTONE:

6 Q You stated earlier that in the period immediately
7 in and around the inspection by the State of Connecticut by
8 Mr. Parker on June 2nd, 1977 that drums were stored through-
9 out the plant.

10 Is that correct?

11 A This pertains to Exhibit number 13?

12 Q I believe in connection with the testimony about
13 the inspection by the State of Connecticut and meetings
14 thereafter.

15 You testified a few hours ago that drums were
16 stored at that time throughout the plant, is that correct?

17 A I recall I did say that, yes.

18 Q And they are stored throughout the plant?

19 A Yes.

20 Q And when you say that, could you clarify, referring
21 to Exhibit 2, where you mean they were stored?

22 A Okay, G, C, up the concrete pavement -- there's
23 no letter on it, on the right side -- G toward this way
24 (indicating). I don't know which is north or south, but on
25 the right hand side there were drums.

You said as of this date or prior to this date?

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664 PROSPECT AVENUE
HARTFORD, CONNECTICUT

141 CHURCH STREET
NEW HAVEN, CONNECTICUT

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Q As of that date and prior.

A And prior?

Q Yes, and prior.

A In the area where it says crushed stone, there were some there also. A.

Q In the area north -- I don't know north -- but again in the area above where it says "concrete pavement" on Exhibit 2 where the drums are stored, is that area covered?

A Covered?

Q Covered.

A No. Sorry, you mean the whole area --

Q I'm asking that. Was it covered?

A No. Open.

Q The drums were out in the open?

A Yes.

Q Were the drums stored on the ground there, that is, were they sitting on the ground?

A Sitting on the concrete in this area. Sitting on the ground in Section C and sitting on the ground in Section A as I indicated (indicating).

Q You testified further in response to questions, that in your view the use of curbing -- that you saw no point -- from your point of view, in the curbing because you would only have to dispose of the excess water?

0006391

1
2 A I did say that, yes.

3 Q And therefore, from your point of view, it was a
4 more satisfactory arrangement to not have to dispose of the
5 excess water, is that correct?

6 A My point of view was such that I felt it was not
7 necessary to curb the whole plant, probably due to the fact
8 that drums were now being stored on concrete. If a leak did
9 occur, it would be seen immediately.

10 Procedures had been set out and documented and
11 sent to the State of Connecticut of inspections of being held
12 once a shift, minimum, by shift leaders on the shift, checking
13 drums and so on. Drums that were properly stored and
14 managed, there would be no problem.

15 Q But the storm water, the excess water that you were
16 talking about, would go where? Where would that excess water
17 go without the curbing? Where did the water go without the
18 curbing?

19 A Off the plant site.

20 Q Where?

21 A Either north, west, east, where it overflowed.
22 Some toward the railroad tracks.

23 Q Directing your attention to -- was the water from
24 the well ever used for drinking water?

25 A I can't answer that question. I don't know if it

1
2 was ever.

3 Q You don't know if it had ever been used for
4 drinking water?

5 A I can't answer that. I don't know.

6 Q During your period of working for Solvents
7 Recovery, have you ever known of it being used for drinking
8 water?

9 A Never.

10 MR. MILLSTONE: I have no further
11 questions.

12 CROSS-EXAMINATION

13 BY MR. CAREY:

14 Q Mr. Marini, I am Austin Carey from Hartford and
15 I represent the Connecticut Fund for the Environment and
16 some other individuals who have intervened in this lawsuit
17 by the United States.

18 I believe you testified earlier that you make
19 regular trips to Connecticut and that such trips occur
20 approximately once a week?

21 A I try. Around the holidays, in a case like that,
22 I try to once a week.

23 Q Since you assumed your present duties in ap-
24 proximately '76, --

25 A I assumed-- I started with the company in '76.

0006393

I wasn't given my present position until, I think, February or March of '77.

Q But since that time, you had been making weekly visits?

A Close.

Q And from time to time you prepare inspection reports?

A Yes.

Q On the average, how frequently did you prepare such reports?

A Let's put it this way. I do inspect the plant once every time I'm up there. But only infrequently do I actually prepare a written document on the inspection.

Q Once a month?

A That's a good number. I don't know.

Q Could be once a month?

A Could be.

Q What did you do with that written report?

A I issued it to the plant manager which at that time was Al Tatro.

Q You send him a copy?

A Yes, and cc to my immediate supervisor.

Q And who's that?

A At the beginning of my tour, John O'Connell. Now,

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1
2 Jim Hulm.

3 Q Who else gets a copy?

4 A And myself.

5 Q Anyone else?

6 A No one else except myself and Jim Hulm and the
7 plant manager.

8 Q Referring to Exhibit 16 which you testified
9 previously you haven't seen specifically, but on the second
10 page, item labeled 76-4 --

11 A Right.

12 Q -- the third sentence of that paragraph is
13 enclosed in parenthesis and reads as follows: "Many tanks
14 have been mounted on temporary supports, some of which have
15 already subsided into the soil, and many of these tanks are
16 now resting directly on/or down into the earth."

17 This document is dated March 15, 1978 and now,
18 based upon your weekly visits to the plant during that
19 period, is that a fair statement of the conditions that you
20 listed?

21 A Yes.

22 Q As of or about that date?

23 A Yes.

24 Q I'm referring now to Exhibit 20. The address
25 on the letterhead of the State of Connecticut, Department

of Environmental Protection reads Solv, Inc.

Are you familiar with a corporation or business entity having that precise name?

A. No. I hope that's a misnomer or a name we had used in the past, but I'm not familiar with that. Ever since I've been involved with the company, it's been Solvents Recovery Service of New England.

Q. What's the precise name of the business entity for which you work?

A. I need a little more clarification.

Q. You're employed currently, are you not?

A. Yes.

Q. Since '76 you have been so employed?

A. Yes.

Q. And have you been employed by the same business during all of those years?

A. Yes.

Q. Have you ever been employed by any other business --

A. No.

Q. -- during that period of time?

Okay. What's the name of the company which has employed you from '76 to the date of this deposition, the precise name or as near as --

1
2 A On my paycheck? Solvents Recovery Service of
3 New Jersey.

4 Q Do you have an employment contract of any kind, a
5 written contract?

6 A Yes.

7 Q Have you had a written employment contract from
8 '76 to the present?

9 A Yes.

10 Q And is that contract with Solvents Recovery
11 Service of New Jersey?

12 A I can't answer that. I'd have to go home and
13 check that.

14 Q I understand.

15 In connection with your income tax return that
16 you're unpleasantly faced with every year, do you know what
17 I mean by W-2 Form?

18 A Yes.

19 Q Are you furnished such a form annually --

20 A Yes.

21 Q -- by your employer?

22 How many forms do you receive, how many W-2's?
23 I'm not talking copies, I'm talking about the originals.

24 A One.

25 Q Do you keep track of the amount of time that you

1
2 spend working on matters pertaining to the New England plant?

3 A No.

4 Q Do you know of anybody who does?

5 A I don't think there's anybody in the plant that
6 does.

7 Q Referring to Exhibit 22. The first line of that
8 memorandum reads: "Effective immediately, no disposal
9 business will be taken into New England without my approval."

10 Prior to that time, to your knowledge, had
11 disposal business been taken into New England?

12 A Oh, yes.

13 Q And from where did that disposal business originate?

14 A Several generators. I can't answer that.

15 Q More specifically, did it originate from your New
16 Jersey plant?

17 A No.

18 Q Did any disposal business at any time involve
19 material transported from New Jersey to New England, to your
20 knowledge?

21 A I would say yes.

22 Q When was that?

23 A Maybe three, four years ago.

24 Q What sort of disposal was involved?

25 A It was on the same type as still bottom residue,

1 something like that.

2 Q Where was that material generated?

3 A At New Jersey.

4 Q At the New Jersey plant?

5 A Yes, sir.

6 Q Why was it not disposed of locally?

7 A I can't answer that. I'd have to assume at that
8 time no outlet was available.

9 Q Do you have any reason to believe there might not
10 have been an outlet available?

11 A I cannot recall, just an assumption on my part.

12 Q Okay. Referring to Exhibit 25, just as an aid,
13 within that document there is reference to a permit, I
14 believe a 25-54hh Permit?

15 A Yes.

16 Q Please tell me what, if any, procedures were
17 established by Solvents Recovery to insure that the contractors
18 such as Ace, to whom it gives its disposal products, were
19 properly licensed by whatever governmental or health
20 authorities were concerned?

21 A At that time, there was no form of procedure.
22 More of an informal-type of procedure such that the hauler
23 involved indicated that he was approved. That's as far as it
24 went.
25

Q You never asked for a permit?

A No.

Q Never asked to see his license?

A I take that back. One time we did get -- we requested from someone a permit and we did see one.

Q When was that?

A Sometime in, maybe, '77, something like that.

Q After the date of the letter from the Department of Environmental Protection?

A It was not this individual.

Q After that letter?

A I can't say.

Q Might have been after that letter?

A I can't say.

MR. CAREY: I have nothing further.

CROSS-EXAMINATION

BY MR. KELLEY:

Q On Exhibit Number 26, can you identify who Vernon is? On page 1 of that exhibit in the second numbered paragraph, Vernon and Eastern Lacquer. Can you identify either of those companies by a more formal name?

A Eastern Lacquer and Vernon. I think Vernon Plastics.

Q And where are they from, do you know?

1
2 A It would be a guess on my part. I think
3 Massachusetts, but I'm not sure.

4 Q On the last page of that same exhibit, in the
5 paragraph again numbered number 2, can you tell us what, if
6 you know, the second line, it says, AUT, means?

7 A AVT.

8 Q Well, if it is AVT, what does that mean?

9 A Initials of the plant manager of the New England
10 plant at that tim.

11 Q Tatro?

12 A Yes.

13 Q In that same numbered paragraph, there's a last
14 name.

15 A Berucko.

16 Q Who's that?

17 A Salesman.

18 Q And he works for Solvents?

19 A Yes.

20 Q Going back to Exhibit number 19 which is a series
21 of bills of lading from Ace Environmental. If you would,
22 could you look at those, the first, second and third and
23 identify I.E.I. and that's underlined twice. Do you see
24 that?

25 A Okay.

1 Q Can you identify what that means?

2 A I cannot. I think I stated to the gentleman here
3 before I'm ignorant. I have no idea what that stands for.
4

5 Q Earlier you referred to a drum number 3 and
6 identified that as a number 3 type of drum?

7 A Yes.

8 Q Okay. And also I think it's in Exhibit number
9 26, there's a reference to a number 2 drum.

10 Could you explain what that means?

11 A It's a description of the drum that contains
12 nonpumpable residue. It affects your pricing structure.

13 If number 2, it's a drum that contains non-
14 pumpable residue, and less than one-third of the volume.

15 In number 3, greater than one-third.

16 Q Earlier you also talked about water in a flashing
17 procedure. You used that term a couple of times.

18 Could you explain that to us?

19 A Our description of our process is a -- it's a
20 description of our process, such as a bat still operation.
21 You put material into a pot, we'll say, and you like boil
22 its -- like you're boiling water and the recoverable material
23 flashes over and then it's condensed in a liquid and the
24 free water, if any, is also flashed over.

25 Q Does that happen at the same time?

1
2 A Just as you boil water. You get vapors coming
3 and then you condense to a liquid and the free water is
4 decanted off and the water left, that's soluble and the
5 solvent is dried with either calcium chloride or something
6 like that.

7 MR. KELLEY: I have no further
8 questions.

9 MS. PERCELL: I have no questions.

10 (Whereupon, this deposition was concluded
11 at 1:30 p.m.)
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| 21 | Memo entitled "Conversation with Uly Marini dated July 28, 1977 from J. P. O'Connell | 161 |
| 22 | Memo dated July 28, 1977 from J.P. O'Connell to C. J. Bown, two pages, subject: Disposal-New England | 161 |
| 23 | A two-page memo dated August 2, 1977 from Mr. Marini to Mr. O'Connell entitled "Status of Disposal Problem Discussed with JPOC on 7/28/77 | 174 |
| 24 | A two-page letter dated November 9, 1977 from William D. Hegener to John P. O'Connell | 179 |
| 26 | A six-page handwritten document | 184 |